

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF	)	PCHB No. 79-163
PETER ACCETTURO,	)	FINAL
	)	FINDINGS OF FACT,
Appellant,	)	CONCLUSIONS OF LAW
	)	AND ORDER
v.	)	
	)	
PUGET SOUND AIR POLLUTION	)	
CONTROL AGENCY,	)	
	)	
Respondent.	)	

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Sections 8.02(4 and 5) of respondent's Regulation I, came before the Pollution Control Hearings Board, Nat W. Washington, Chris Smith and David Akana (presiding) at a hearing on Novmeber 9, 1979. The parties agreed that the hearing be informal.

Appellant appeared pro se.; respondent was represented by its attorney, Keith D. McGoffin.

1 Having heard the testimony, having examined the exhibits, and having  
2 considered the contentions of the parties, the Pollution Control Hearings  
3 Board makes these

#### 4 FINDINGS OF FACT

##### 5 I

6 Appellant contracted to remove one of several barns on a 20-acre site  
7 located at or near 11048 SE 274th Street in Kent, Washington. Appellant's  
8 purpose in demolishing the barn was to reclaim lumber for his own use.  
9 Demolition was accomplished by hand. Materials which could not be reused,  
10 such as asphalt shingles and plastic, were removed from the site by truck.

11 On August 14, 1979 scrap lumber and debris from the barn was stacked in  
12 a 5' diameter by 2' high pile at the site of the old barn and set on fire by  
13 appellant. The fire did not produce large quantities of visible smoke or  
14 noticeable odor.

##### 15 II

16 At about 2:30 p.m. on August 14, 1979, the Kent Fire Department  
17 discovered the fire and told appellant that he was burning without a permit  
18 within the fire department's jurisdiction. The fire department then  
19 informed respondent of the open fire.

##### 20 III

21 At about 3:00 p.m. on August 14, 1979 respondent's inspector visited  
22 appellant's work site and observed the open fire. Appellant did not attempt  
23 to put out the fire, but rather, allowed it to burn down.

24 For the foregoing occurrence, appellant was issued a \$250 civil penalty  
25 for allegedly violating Sections 8.02(4) and 8.02(5) of respondent's  
26 Regulation I, which penalty was appealed to this Board.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 \$250 civil penalty is reduced in amount to \$125. Fifty dollars (\$50) or the  
2 reduced penalty shall be payable with the remaining amount, \$75, being  
3 suspended on condition that appellant not violate any provision of  
4 respondent's Regulation I within a period of one year from the date of this  
5 order.

6 III

7 Any Finding of Fact which should be deemed a Conclusion of Law is hereby  
8 adopted as such.

9 From these Conclusions the Board enters this

10 ORDER

11 The \$250 civil penalty is reduced in amount to \$125. Fifty dollars  
12 (\$50) of the reduced penalty is payable with the remaining amount, \$75,  
13 being suspended on condition that appellant not violate any provision of  
14 respondent's Regulation I within a period of one year from the date of this  
15 order.

16 DATED this 14<sup>th</sup> day of November, 1979.

17 POLLUTION CONTROL HEARINGS BOARD

18  
19 Nat W. Washington  
NAT W. WASHINGTON, Chairman

20  
21 Chris Smith  
CHRIS SMITH, Member

22  
23 David Akana  
24 DAVID AKANA, Member

25  
26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND ORDER

IV

Pursuant to RCW 43.21B.260 respondent has filed with this Board a certified copy of its Regulation I and amendments thereto which we notice.

Section 8.02 provides in part that:

It shall be unlawful for any person to cause or allow any outdoor fire;

(4) for the purpose of demolition, salvage or reclamation of materials; or

(5) in violation of any applicable law, rule or regulation of any governmental agency having jurisdiction over such fire.

Section 3.29 provides for a civil penalty of up to \$250 per day for each violation of Regulation I.

V

Appellant has no record of previous violations of Regulation I.

VI

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

Appellant violated Sections 8.02(4) and 8.02(5) of respondent's Regulation I on August 14, 1979 for which a penalty pursuant to Section 3.2 can be properly imposed.

II

The gravity of appellant's violation and his previous good record indicates the imposition of a \$250 fine is not warranted in this case.

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER